

**REMARKS/ARGUMENTS**

Applicant respectfully requests reconsideration of this application, as amended in accordance with 37 CFR 1.116, and reconsideration of the Final Office Action dated January 18, 2005. Upon entry of this amendment, claims 1-22 remain pending in this application. Support for the Amendment is found in the claims as originally presented. No new matter has been incorporated by this Amendment.

The Examiner has rejected Claims 1 and 6 under 35 USC §102(b) as being anticipated by U.S. Patent 5,704,858 to *Yang* for "Safety Baseball". *Yang* is directed to a safety baseball comprising a core with a center core and three core layers surrounded by an outer cover. In *Yang*, the second core layer is harder and denser than the first and third core layers, but is softer and less dense than the center core. *See* col. 2, lines 1-5. Furthermore, the last core layer next to the cover, i.e., the third core layer, is soft. This produces a safety baseball having a soft outer portion to prevent children from being hurt.

Applicant has amended claim 1 to further identify Applicant's game ball that has no more than two mantle layers in order to have the playability that is required for such balls. *Yang* entirely fails to disclose an improved game ball for competitive or regulation play having a core with no more than two mantle layers as required by the amended claims. Instead, *Yang* discloses three mantle layers surrounding a center core. Moreover, the outermost core layer in *Yang* is soft, as opposed to being hard like the outer layer of the game ball of the present invention. Consequently, the present invention as now claimed is not disclosed or anticipated by *Yang*.

The Examiner also rejected Claims 9-11 and 22 under 35 USC §103(a) based upon the '858 patent to *Yang*. Claims 9-11 and 22 are all dependent from Claim 1, and so, each includes a recitation that the core comprises a center core having no more than two mantle layers as noted above. Hence, *Yang* does not provide any teaching or even a suggestion that the core of the safety baseball include only two (or less) additional mantle layers of specific composition and hardness.

The Examiner has additionally rejected Claims 2, 4, 5, 7, 8, and 14-18 under § 103(a) as being obvious over *Yang*, in view of U.S. Patent 5,951,420 to *Talarico, et al.* Applicant submits, however, that if one combined the teachings of the patents to *Yang* and *Talarico et al.*, one would be motivated to use an opposite arrangement of layers than what is recited in the claims at issue. Specifically, all the claims at issue recite, in part, that the center core exhibits a hardness greater than the hardness of the mantle layer surrounding the core. In contrast, *Talarico* teaches that the core 2 is softer than the layer 4 surrounding it (*see* col. 2, lines 9-19), while *Yang* teaches the opposite arrangement of layers, i.e., that the core be harder than all mantle layers positioned around the core. The teachings of the references can be combined only if there is some suggestion or incentive in the prior art to do so. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Since the teachings of these two patents are inconsistent with one another, Applicant submits that it is improper to attempt to combine these references in rejecting the claims of the present invention.

Nor is it proper to base the present rejection upon *Yang* alone since the claims at issue all recite particular aspects of urethane composition is utilized in the claimed game balls. As

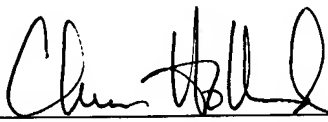
noted in the Examiner's Office Action, *Yang* entirely fails to provide any teaching as to urethane components or their use in a game ball.

The Examiner has additionally rejected Claims 3, 12, 13, and 19-21 under § 103(a) as being obvious over *Yang* in view of *Talarico* and U.S. Patent 5,647,590 to *Walker, et al.* Applicant notes that *Walker* does not remedy the deficiencies of the combination of *Yang* and *Talarico*. *Walker* describes a game ball with an exceedingly soft core that is surrounded by a harder layer. Again, this is the opposite arrangement of materials as compared to the game balls recited in the amended claims. Moreover, *Walker* is not properly combinable with the *Yang* patent since they provide contradictory teachings.

In view of the amendments to the claims and the arguments provided, Applicant respectfully submits that the claims of the present invention are not anticipated nor obvious in view of *Yang*, *Talarico*, or *Walker*, and requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

SMITH, GAMBRELL & RUSSELL, LLP

By: \_\_\_\_\_

Christopher A. Holland, Reg. No. 46,316

Suite 3100, Promenade II  
1230 Peachtree Street, N.E.  
Atlanta, Georgia 30309-3592  
Telephone: (404) 815-3770  
Facsimile: (404) 685-7070